IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.

Writ Petition No.4967/2007
(Sangarsha Samiti Akola Oil Ind. Ltd. .vs. M/s Akola Oil Industries Ltd. Nagpur and ors.)

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders | Court's or Judge's orders.

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Mr. Anil Mardikar with Mr. S. K. Tambde, Advocates for the Petitioner. ‘
Mr. Shriniwas Deshpande, Advocate for Respondent no. 1.
Mr. M. Anilkumar, Advocate for Respondent no.2.
Mr. Sunil V. Manohar, Advocate for Respondent no.3.

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CORAM : K.J. ROHEE, &
R.C. CHAVAN, JJ
DATED : DECEMBER 5, 2007

1. Heard the counsel for the parties.

2. The movable and immovable property of respondent no.1 was auctioned. Respondent no.3 purchased the property for Rs.12 crores. Out of the sale proceeds, a sum of Rs.1.20 crores is due for distribution to the workers. The present petitioner stakes the claim of its workers for a sum of Rs.12 crores and in order to get the amount, the petitioner wants that respondent

no.3 (who is an auction purchaser) should not remove the machinery etc. from the premises purchased by it.

3. A combine reading of first proviso to sub-section 9 of Section 13 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act,2002 and Section 529-A of the Companies Act,1956 shows that the amount is to be appropriated firstly to the workers' dues and secondly to the secured creditors. The same is to be paid pro-rata. If that is so, respondent no.3 cannot be restrained from removing its machinery purchased by it for which it has deposited the auction money. As such the prayer made by the petitioner is rejected.

4. At this stage the learned counsel for the petitioner seeks permission to withdraw the petition with liberty to move the Company Judge for necessary relief. Permission granted. Petition is allowed to be withdrawn and disposed of accordingly.

JUDGE **JUDGE**

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